Committee on Resources,

Subcommittee on Fisheries Conservation, Wildlife & Oceans

fisheries - - Rep. Wayne Gilchrest, Chairman
U.S. House of Representatives, Washington, D.C. 20515-6232 - - (202) 226-0200

Witness Statement

Written Testimony of Jacqueline Savitz,
Executive Director, Coast Alliance
Before the Subcommittee on
Fisheries Conservation, Wildlife and Oceans
United States House of Representatives
Regarding Reauthorization of the Coastal Zone Management Act
May 25, 2001
On Behalf of the Following Organizations:
Natural Resources Defense Council, New York, New York

Sierra Club, Washington, District of Columbia
Audubon Society, Washington, District of Columbia
World Wildlife Fund, Washington, District of Columbia
Center for Marine Conservation, Washington, District of Columbia
American Oceans Campaign, Washington, District of Columbia
Cook Inlet Keeper, Homer, Alaska
Florida Keys Environmental Fund, Islamorada, Florida
Cape Arago Audubon Society, North Bend, Oregon
The Chester River Association, Chestertown, Maryland
Waterkeeper Alliance, White Plains, New York
Massachusetts Audubon Society, Lincoln, Massachusetts
Northwest Environmental Advocates, Portland, Oregon
Mobile Bay Watch, Inc./Mobile BayKeeper, Mobile, Alabama
New York-New Jersey Baykeeper, Sandy Hook, Highlands, New Jersey
Americal Littoral Society, Sandy Hook, Highlands, New Jersey
New River Foundation, Midway Park, North Carolina
Save the Sound, Stamford, Connecticut
North Carolina Coastal Federation, Newport, North Carolina
Apalachicola Bay and Riverkeeper, Florida
Gulf Restoration Network, New Orleans, Louisiana
Conservation Law Foundation, Rockland, Maine
Save the Bay, Providence, Rhode Island
Friends of Casco Bay, South Portland, Maine
Pacific Whale Foundation, Maui, Hawaii

Introduction

The Coast Alliance welcomes the opportunity to submit testimony to this Subcommittee on the reauthorization of the Coastal Zone Management Act. The Alliance leads a network of over 600

organizations along all four United States coasts, including the Great Lakes. Together we work to protect this nation's priceless coastal resources. This testimony is endorsed by the twenty-five organizations listed on the cover page.

Coast Alliance has a long history of work to support the Coastal Zone Management Act (CZMA) and has been very active in its reauthorizations. We look forward to working with this Subcommittee to reauthorize the Act again. Since the Act was originally passed in 1972, there has been little respite from human impacts in coastal areas. The latest population estimates suggest that by 2015, the coasts will be home to nearly 25 million more people. Where will our already crowded coasts put these 25 million people? What impact will these new residents have? What will be left of our precious marshes, beaches and woodlands? How will our coastal bays, lakes and estuaries fare?

The answers, and our greatest hope for the coasts, lie in a carefully crafted and well-defined Coastal Zone Management Act. Coast Alliance believes strongly that the Coastal Zone Management Act has been a very important program, providing much needed attention to coastal issues, and ensuring interagency coordination and comprehensive solutions. Through reauthorization we can give it a chance to be effectively implemented.

As Congress embarks on this important task, the Coast Alliance and its affiliated organizations believe that in order to achieve its goals, the Act must reflect the following principles:

1) The Coastal Nonpoint Pollution Control Program in its current form must be integrated into the Act, and sufficient funds must be authorized for its support because polluted runoff is the number one cause of water quality impairment, threatening coastal economies, and aquatic resources and habitats.

2) The Coastal Nonpoint Pollution Control ProgramÕs requirements for enforceable mechanisms must be retained if the Act is to achieve its goals.

3) The Act's consistency provisions, which provide an important tool for states to protect their coastal ecosystems must not be weakened.

4) The financial resources made available through CZMA should focus on projects that provide agreed-upon benefits to coastal resources, and not those with definite or potential ecological risks. Any new projects or grant programs supported through appropriations under CZMA must be environmentally protective, maintaining the natural integrity of coastal ecosystems. While the impacts of some projects such as beach filling, dredging and shoreline stabilization may be a subject of debate, there are certainly many sources of funding available for such programs and they should not take precedence over coastal protection programs.

Background

Population growth on the coasts simultaneously barrages the area with additional sources of pollution and robs the coast of its resilience or its ability to withstand stress. Marshes, forests, and grasslands, for example, are replaced with impervious surfaces that cause polluted water to speedily rush to near-shore habitats. The result is not just a degraded habitat, but in many cases the loss of fisheries and other coastal resources worth billions to the economy. Such impacts should be minimized, not facilitated, by a new Coastal Zone Management Act.

The extensive benefits of these ecosystems have consistently been under-appreciated since today's cost-

benefit studies are not equipped to measure the intrinsic values of wetlands, rivers or the ocean. Where they are considered, generally only those goods that can actually be bought or sold are included in the equation. Besides the obvious market-based values such as fisheries and transportation, coastal ecosystems quietly provide us with more varied life-supporting services. These ecological services, such as the roles a forest plays in producing oxygen, or preventing runoff, are almost never considered in cost-benefit analysis. Careful consideration of the values of these ecological services provided by coastal resources can help understand and demonstrate the need for conservation.

Economists estimate that the global ecosystem provides $33 trillion each year in services to humankind. The coasts, which include oceans, estuaries, the continental shelf, lakes, rivers, seagrass beds, wetlands, and coral reefs were valued around $27 trillion, making up 80 percent of the total value of the earth's ecosystem services.

Coastal ecosystems prevent runoff, support fisheries, and regulate the gases in the atmosphere that maintain global temperature, shield us from harmful solar radiation, and allow us to breathe. Ecosystem services also include purification of water, mitigation of floods and drought, pollination, pest control and generation of fertile soils (Nature 1998). There are also the obvious benefits: recreation, cultural opportunities, and the provision of resources like lumber, fuel and food (Costanza et al. 1997). All we need to do to realize these immense benefits is to protect the coasts, and the $27 trillion figure provides a clear indication of the importance of doing so.

Development and pollution, the two greatest threats to the coasts, need to be addressed by the Coastal Zone Management Act. Whether the source is agricultural runoff, sloppy forestry practices or uncontrolled urban runoff, control over the continued onslaught from polluted runoff is long overdue.

The most common source of pollution, runoff comes from thousands of diffuse sources, such as farms, logging areas, new and existing developments, natural waters, marinas, septic systems, dams and other sources. Together they create a serious and ubiquitous water pollution problem. However, compared to factories and sewage treatment plants, runoff pollution remains essentially unregulated.

In spite of the prevailing myth that the sources are too diffuse to address, the truth is that there are proven methods of controlling polluted runoff. Like point source pollution, polluted runoff can be managed and the time has come to level the playing field.

The Coastal Nonpoint Pollution Control Program can help us begin to solve these problems. This policy tool that Congress created can stop runoff from taking its toll on local waterways. Coast Alliance has been working closely with state and federal government agencies to ensure that the federal investment in this program is well spent. We also have worked hard to help ensure adequate funding for the program; however, to date the funding level does not reflect the need, or the degree to which runoff harms ecosystems.

As Congress embarks on its reauthorization process, we would like to draw your attention to this important problem. Coast Alliance has produced a number of reports including *Pointless Pollution: Preventing Polluted Runoff and Protecting America's Coasts* and *Mission Possible: State Progress Controlling Runoff Under the Coastal Nonpoint Pollution Control Program*. These reports compile information on the state of the coasts with respect to polluted runoff problems and summarize coastal states' efforts to address the problem through the Coastal Nonpoint Pollution Control Program. A summary of our findings follows.

The Need to Prevent and Control Polluted Runoff

America's coastal waters are a critical resource providing food, drinking water and recreational opportunities to all of its citizens. However, those are not all of the benefits. According to a recent economic analysis, coastal ecosystems such as wetlands, estuaries, and coral reefs provide us with billions of dollars worth of services such as air and water purification, flood prevention, and provision of habitat. When these ecosystems are destroyed by pollution or unmanaged development, we lose more than a pretty place. It costs us our air filtering system, flood control, natural water filters - losses we may never recoup -this goes beyond marketable resources we extract from the coasts. Recognizing the need to ensure sustainable use of our fisheries and other coastal resources, Congress created the Coastal Zone Management Act.

Studies show that the Act holds promise (Hershman et al. 1999). Yet our coasts are increasingly subject to diverse sources of stress. As a result of the everincreasing population and pollution pressure, the coasts endure constant challenges such as harvesting forests and draining wetlands, which would otherwise contribute to coastal resilience. As our population grows, the coasts' allure may also be their detriment, and already the impacts are becoming clear.

Polluted runoff continues to rob coastal economies of billions of dollars that might otherwise be generated by tourism, fishing, and wildlife-watching. Coastal resources such as wetlands, oceans, and estuaries, are significant income generators and have tremendous ecological values. These coastal resources offer us many services that are lost as the resources diminish. Increasing populations will cost the coasts dearly unless runoff is prevented.

Coastal program managers agree. A recent evaluative study (Hershman 1999) found that one failure of the program according to its senior managers was that it has not adequately addressed water quality protection, watershed management, or nonpoint source pollution. Coast Alliance's report, *Mission Possible,* corroborated this finding.

State of the Coasts

According to the Environmental Protection Agency (EPA), most, if not all of the estuaries in the National Estuary Program identify nutrient enrichment as a primary environmental problem (Wayland 1996). Nationally, only about six percent of the nitrogen comes from point sources (Wayland 1996). The remainder results from runoff, and other nonpoint sources. In many areas such as Chesapeake Bay, nearly two thirds of the load originates as traditional nonpoint sources: agriculture, forestry and development (Boesch 1996).

Runoff Closes Shellfish Beds, Destroying a Livelihood

In 1995, 3.5 billion acres, or nearly one in every seven acres of classified shellfish beds were not approved for harvest due to poor water quality. The causes - failing septic systems, pollution by marinas and boating, agricultural runoff and feedlots - are precisely the sources that can and should be reduced by the Coastal Nonpoint Pollution Control Program.

According to data from the National Oceanic and Atmospheric Administration (NOAA), nonpoint source pollution was a cause of 85 percent of these shellfish bed closures overall[(1)]. In 14 of the 21 coastal states included in the National Shellfish Register, more than 95 percent of the area closed to shellfishing was impaired by nonpoint sources. This includes eight states where 100 percent of the acres closed were attributed, at least in part, to polluted runoff.

Runoff Leads to Low Oxygen Conditions, Threatening Fisheries

Scientists have shown that hypoxia caused by nutrients carried in runoff may affect fisheries resources by killing fish, reducing the habitat or food that is available, or by making them more susceptible to their predators, including humans (Rabalais et al. 1996).

While hypoxia is generally a temporary condition, long-term low oxygen trends have been observed in lakes and estuaries around the country. In places like the Gulf of Mexico and Chesapeake Bay there is little respite from continuous loads of nutrients fed into the water from agriculture, urban runoff, wastewater treatment, air deposition, and otherwise.

The most vivid example is the Dead Zone, an area in the Gulf of Mexico, near the mouth of the Mississippi River. Roughly 40 percent of the continental United States drains its fertilizers, pesticides, and other runoff into the Mississippi, contributing to the Dead Zone. The size of the Dead Zone varies from year to year depending on weather conditions and runoff volume among other factors.

Scientists have studied this area over a series of years and found that below certain critical oxygen levels shrimp fishermen rarely catch shrimp in their trawl nets. Mobile organisms such as fish disappear as the oxygen levels drop (Harper and Rabalais 1996); they have likely left these areas in search of more oxygen-rich waters. Animals such as crabs and anemones, that are incapable of escaping, have been observed to die on the bottom. Since the natural scavengers have died or fled, the corpses are not consumed as they normally would be (Harper and Rabalais 1996). They simply lie on the bottom as a testament to the lifelessness of the Dead Zone.

Estuaries and lakes on all four coasts suffer from low oxygen due to nutrient enrichment. Management measures in the Coastal Nonpoint Pollution Control Program guidance (EPA 1993), if applied in watersheds like the Mississippi River and its tributaries, could begin to shrink "dead zones" and bring back the fisheries.

Runoff Stimulates Harmful Algae Blooms

Pollution problems begin to really hit home when they threaten public health. The summer of 1997 saw an extremely frightening environmental disaster: fish kills that could sicken humans. A toxic micro-organism called *Pfiesteria* came onto the scene. That year alone, Pfiesteria killed more than a million fish, and caused human health problems including memory loss, reduced ability to solve simple math problems, and skin lesions resembling those found on dead and dying fish. Other algae species that can cause similar effects on fish communities and humans have caused blooms in other coastal areas as well.

Since Pfiesteria was first found in nature in 1991, it has caused major fish kills in North Carolina's Neuse and Pamlico Rivers and in Maryland's Pocomoke River. In the summer of 1997, besides the million fish killed in North Carolina, an additional kill (10,000 fish) followed in the Pocomoke River in Maryland (Burkholder and Glasgow 1997). An outbreak of *Pfiesteria* also was documented in the Indian River in Delaware (EPA 1998). According to Dr. JoAnn Burkholder (1996), these outbreaks coincide with increases in pollution and wetland loss.

The excessive non-point source loads of nitrogen and phosphorus in coastal North Carolina and Maryland are undeniable. While the poultry and swine industries have been quick to deny that their wastes could be contributing to this problem, scientists have acknowledged that reducing nutrients would likely reduce the Pfiesteria problem (WRRI 1998, Boesch 1997, Boesch et al. 1997). In spite of industry's claims, according

to a scientific consensus, the benefits of reducing nutrient pollution are clear:

"There can be little question that decreases in nutrient loading (both organic and inorganic forms of nitrogen and phosphorus) will reduce eutrophication and thereby, lower the risk of toxic outbreaks of Pfiesteria-like dinoflagellates, hypoxia and fish kills." *Findings of the Raleigh Report, 1998 (WRRI 1998).*

There is no time to waste in addressing harmful algae blooms like Pfiesteria. The facts are in, and the Coastal Nonpoint Pollution Control Program is poised to fulfill this immediate water quality need.

Runoff Clogs Harbors, Costing Taxpayers Millions

The mouth of the Maumee River in Ohio demonstrates yet another costly problem resulting from insufficient environmental controls. The tremendous plume of sediments that washes into Toledo Harbor clogs channels and challenges the Lake Erie ecosystem. In total, about 6.4 million tons of soil are eroded from cropland during rainstorms. While much of this soil remains on land, 1.3 million tons of sediment flows into the Harbor[(2)] (Sohngen 1998).

Toxic metals in Toledo Harbor and Lake Erie contaminate these new sediments after they enter the river. As a result, most sediments dredged from the area are contaminated and must be confined in a facility designed to prevent toxics from escaping into the environment.

Reducing sediment runoff from farms could significantly reduce dredging and disposal costs. By slowing the flow of sediments into the river, and reducing the amount of material to be dredged by about two million cubic yards, the Army could prolong the life of the disposal facility and postpone its construction by about two years. These outcomes would save taxpayers as much as $1.3 million each year (Sohngen 1998). In addition, spawning habitat for fish and other aquatic life would be improved, costs would be saved in treating drinking water, and recreational opportunities in the area would improve.

Preventing runoff can also save money for farmers. Besides topsoil, runoff carries valuable nutrients away from farm fields and into nearby waterways. By minimizing nutrient losses, farmers can save money on nutrient inputs, such as fertilizer and feed.

The measures needed to achieve these significant benefits for taxpayers, ports, farmers and the environment are precisely the type that would be provided by the Coastal Nonpoint Pollution Control Program. EPA's guidance contains management measures that could prevent sedimentation in rivers and harbors everywhere.

Runoff Contaminates Beaches, Making Swimmers Sick

A study conducted by the Santa Monica Bay Restoration Project (SMBRP) identified health threats at prime swimming and surfing spots on the Southern California coast that were not previously under a swimming advisory (SMBRP 1996).

Santa Monica is a popular swimming and surfing area near Los Angeles in Southern California. On a typical day, storm drains carry runoff from more than 400 square miles, releasing from 10 to 25 million gallons of stormwater into the bay. When it rains, more than 10 billion gallons of runoff may wash into the ocean (Knudson and Vogel 1996). With the runoff come waste products of millions of residents in one of the most densely developed areas of the country. Besides toxic chemicals from anti-freeze, brake pads, leaking oil, urban lawn chemicals and the like, bacteria and viruses creep in, from leaking sewage systems, animal

waste, and fertilizers. These viruses can cause illness and render waters unsuitable for swimming.

The study found that people who swam near storm drains had increased incidence of fever, chills, vomiting, coughing with phlegm, ear discharge, respiratory disease, and gastrointestinal illness among other ailments. These problems were especially pronounced in swimmers who swam closest to the drains. When the total coliform counts were high, swimmers encountered the same problems more frequently, even when they swam further away from the storm drains (SMBRP 1996).

Certainly the severe problems experienced in Santa Monica Bay and elsewhere should be considered by those charged with planning new development in coastal areas. This calls for strong management measures for new and existing development in states' coastal runoff plans.

The Coastal Nonpoint Pollution Control Program

By 1990, Congress recognized that earlier efforts to control the polluted runoff problem had not been successful and that coastal areas were especially vulnerable to this type of pollution. To ensure that states and federal agencies worked together to deal with this increasingly serious problem, Congress created the Coastal Nonpoint Pollution Control Program.

This program focuses exclusively on efforts to prevent and control polluted runoff in coastal watersheds. As more and more people move to the coasts, disproportionate impacts, including runoff-related water quality degradation, make the focused attention to these areas not only appropriate, but essential.

The Coastal Nonpoint Pollution Control Program is the only federal program designed to address runoff in an accountable, targeted and enforceable manner, stressing coordination among agencies as well as local solutions. Run jointly by the Environmental Protection Agency (EPA) and the National Oceanic and Atmospheric Administration (NOAA), the Program requires coastal states to develop and implement plans to prevent polluted runoff. Its requirements initially allow the use of voluntary measures, but require back-up enforceable means to insure implementation where voluntary measures fail. This is the first time that a federal runoff control program has moved beyond voluntary efforts that have proven insufficient to solve the problem.

By issuing technology-based guidance, EPA and NOAA have provided states with measures that are known to be effective in preventing or controlling each major source of runoff (EPA 1993). These management measures address the most prevalent sources of runoff. Most of the measures recommended by EPA are cost-effective, and some will even save money for those who put them in place. As a result, the coastal program could serve an excellent model for the rest of the country.

As a result of the purely voluntary nature of other runoff control programs, little significant progress has been made in cleaning up polluted runoff into America's coastal waters over the past decade. The Coastal Nonpoint Pollution Control Program requires that plans, which may include voluntary programs, also must have back-up measures that are mandatory and enforceable to be used if and when the voluntary programs fail.

As a result, the Coastal Nonpoint Pollution Control Program offers a ray of hope in controlling and preventing polluted runoff. Failure to fund implementation of the Coastal Nonpoint Pollution Control Program will result in the continued costly degradation of America's most valuable ecosystems.

Authorizing Funding to Carry Out the Coastal Nonpoint Pollution Control Program

In September, 2000, Coast Alliance released a report entitled *Mission Possible,* analyzing state progress in carrying out the Coastal Nonopoint Pollution Control Program. The analysis consisted of surveys of state and federal officials as well as citizens. We found unanimous agreement among all those we talked to that the Program is effective but needs additional funding to achieve its goals. Coast Alliance specifically surveyed 5 states facing very diverse coastal pollution to identify innovative approaches to solving runoff problems, as well as barriers to doing so. Four common themes emerged from this analysis:

1 Runoff is recognized as a major pollution problem in every state surveyed. Major sources vary but are clearly identified in most states.

2 Funding to control polluted runoff is a pressing need in each state. However, many states that receive federal funding for coastal programs do not necessarily allocate funds specifically for the Coastal Nonpoint Pollution Control Program. This demonstrates the need for a specific earmark for this program.

3 Overwhelmingly, the Coastal Nonpoint Pollution Control Program has promoted increased administrative coordination in the participating states. This is one of the objectives of the CZMA.

4 While some state programs have been finalized, others are still being developed. Each of these programs needs continued financial support to ensure it is implemented and that the anticipated benefits are achieved.

It is clear from this analysis that funding is critically needed by states, and should be provided through the reauthorization of the Coastal Zone Management Act.

Maintaining the Enforceable Nature of the Coastal Nonpoint Pollution Control Program

Enforceable measures have been the cornerstone of successful environmental programs. For example, the Clean Water Act has enforceable regulations for controlling the discharge of pollution from point sources into waterways that are used by everyone. As a result, a factory or wastewater treatment plant would require a permit to discharge the amount of pollution that runs unregulated off of farms and developments every day.

The costs of polluted runoff to fisheries and tourism economies, not to mention the impacts on the ecological services otherwise provided by coastal areas, certainly justify the use of enforceable measures when voluntary measures fail. In the reauthorization of the Coastal Zone Management Act, for the sake of the coastal resources that the Act is to protect, the enforceability of the program should not be lost or weakened. Since the Coastal Nonpoint Pollution Control Program is the only program with enforceable provisions, if anything, these provisions should be strengthened and used as a model for other programs.

Consistency of Federal Projects with State Coastal Management Plans

The Coastal Nonpoint Pollution Control Program is strengthened by a provision of the Coastal Zone Management Act that requires federal actions in states' coastal zones to be consistent with state coastal zone programs. Since this includes the Coastal Nonpoint Pollution Control Program, the consistency provision will ensure that federal projects adhere to states' pollution control requirements, preventing such projects from undermining the states' efforts to protect their coastal zones. Considered by many to be one of the most critical aspects of the Coastal Zone Management Act, the consistency provisions serve an important

purpose and must not be weakened.

We are concerned about references in the Bush Administration's energy policy that suggest a need facilitate energy development activities on the coasts. There appears to be some interest in the repeal of state authority, provided through the Coastal Zone Management Act, to ensure that federal actions in the coastal zone are consistent with state Coastal Zone Management Plans. It is critical that the consistency provisions of the Coastal Zone Management Act remain strong, and we hope that this Subcommittee will be prepared to prevent any efforts to roll-back this important state authority.

Proposed Legislation

There are two pieces of legislation currently under consideration by this Subcommittee that would reauthorize the Coastal Zone Management Act. Those are H.R. 897, introduced by Congressman Saxton and the Discussion Draft entitled *Coastal Communities Conservation Act of 2001*. In addition, a bill was introduced in the Senate by Senators Snowe, Kerry, McCain, Hollings and Breaux (S. 328). Each bill has a number of components that we support and hope to see enacted as part of a reauthorization bill this year.

H.R. 897

H.R. 897 is similar to a bill we supported last year introduced by Congressman Saxton that passed the subcommittee (H.R. 2669). Unfortunately, it was amended and significantly weakened during full Committee markup. H.R. 897 would reauthorize the Coastal Zone Management Act, creating a program for "Coastal Community Conservation Grants" that would assist local communities in carrying out conservation projects. Importantly, this bill would establish the coordination and implementation of coastal nonpoint pollution control program components as well as activities that reduce the causes and impacts of polluted runoff on coastal waters and habitats as objectives and approved uses of its grants. This objective and this use for CZMA grants does a good job of carrying out the principles we have outlined above.

Specifically, this bill sets aside funding for the implementation of this program as part of the Section 306A Coastal Resource Improvement Program. This funding is of great importance to the environmental community and is a key aspect of the reauthorization in achieving the Act's environmental protection objectives.

Importantly, H.R. 897 preserves important ecological objectives in Section 309 enhancement grants, by requiring that programs funded under that Section attain one or more coastal zone enhancement objectives. These objectives include protection, restoration or enhancement of coastal wetlands, development of measures to assess, consider and control cumulative impacts of coastal growth and development, and adoption of enforceable policies for the siting of energy facilities. As described above, we believe that funding through CZMA should be limited to projects that achieve ecological benefits and programs that harm the environment should be prevented. The preservation of the enhancement objectives in H.R. 897 helps keep the Act on track in that regard.

Coastal Community Conservation Act of 2001

The Coastal Community Conservation Act of 2001 Discussion Draft would also reauthorize the Coastal Zone Management Act. While this bill is a good start, it needs to be strengthened to adequately address the challenges of dealing with nonpoint source pollution. In this bill, two distinct grant programs currently provided in the Act are essentially repealed. The Section 309 grant program is expanded to allow funding

for states to implement, modify and amend their Coastal Zone Management Programs that otherwise have been supported through Section 306 grants.

Funding to Control Runoff Pollution

The bill also seeks to authorize the use of grant funds toward implementation of the Coastal Nonpoint Pollution Control Program, however the bill's authorization of expenditures of funds for this purpose should be clarified prior to final consideration of the bill by the Subcommittee.

Unlike H.R 897, the Section 309 Grant Program contemplated by the Discussion Draft does not clearly incorporate the implementation of the Coastal Nonpoint Pollution Control Program into either the implementation of the state's management program under Section 306 or the newly created Coastal Community Conservation Projects. It does, however, clearly state that no less than 10% of the funding provided for Section 309 must be spent to implement the Coastal Nonpoint Pollution Control Program. As a result it is unclear whether the draft bill authorizes the use of Section 309 grants for implementation of the Coastal Nonpoint Pollution Control Program.

The Coastal Community Conservation Projects would limit funding to technical assistance; construction; planning, design and engineering reports; and monitoring and assessment. This appears to exclude implementation and development of management measures required by the Coastal Nonpoint Pollution Control Program.

Balance of Environmental and Economic Objectives (Funding for Acquisition)

Under the Section 309 Coastal Community Conservation Project eligibility, funds can be used for construction, and not acquisition. These limited funds should be prioritized for uses that would not be otherwise possible. Under the existing law, funds for acquisition can be provided, however, the relevant section is repealed by this bill. We urge that the new section be revised to authorize acquisition for conservation purposesto ensure that our last remaining undeveloped coastal lands can be preserved for posterity.

Loss of Section 309 Enhancement Objectives

The environmental community is concerned about the loss of clear objectives in Section 309 that would help to ensure that projects funded under this section have a net ecological benefit. Under existing law, the enhancement objectives include protection, restoration or enhancement of coastal wetlands; development of measures to assess, consider and control cumulative impacts of coastal growth and development; and adoption of enforceable policies for the siting of energy facilities. Some of these objectives are even more critical today than they were when the law was enacted.

With the current trends in coastal development, energy exploration and species extinction, now more than ever, such objectives need to be clearly stated, and funds need to be dispersed according to coastal management criteria. The loss of these enhancement objectives leaves the Act with a single grant program in which funds may be dispersed irrespective of coastal management priorities. This raises significant concerns in the environmental community as to the direction that the Coastal Zone Management Act is taking with regard to environmental protection.

A Reauthorization of CZMA must appropriately update these objectives to ensure that coastal protection is

being achieved through the use of CZMA grants. We were disappointed to see that this is not achieved by the proposed discussion draft. Rather, important objectives are being lost. We would welcome an opportunity to work with the Subcommittee to preserve these objectives as it further develops this legislation.

Habitat Creation

While restoration and creation of habitat can have significant environmental benefits, The Coastal Zone Management Act should define protection of natural habitat as a principal goal in order to minimize the need to restore and create new habitat. Wetland creation, for example, should not be seen as a replacement for protection of natural wetlands, since engineered wetlands rarely serve the same ecological function as a natural wetland would. The inclusion of the term "creation" is of concern due, in part, to the absence of clear language to prioritize the protection of natural ecosystems. This is a concern in both the Discussion Draft and H.R. 897.

We also are concerned that this could increase funding availability for activities such as the creation of islands from dredged material. This would not only take away funding from desperately needed environmental protection, but it could also allow such creation of islands to become a commonplace solution for dredging waste disposal, trading aquatic habitat for new land, and encouraging dredging and channel deepening where it is unnecessary or economically unjustified. In such a case, spoil islands are not guaranteed to mimic natural habitats, and in some cases, glorified disposal projects have created more serious ecological problems than they have solved. This is a separate issue from restoration of natural areas, which tends to have a higher probability of success than does creation.

Both bills should begin by defining habitat protection as a principle goal if they are going to expand the Act to address creation of habitat, which is a secondary priority.

Definition of Underutilized

The term "underutilized" proposed for insertion in Section 102 of the discussion draft should be defined. While we recognize that this term is commonly used in the context of brownfields redevelopment, it would be useful to define it for the purposes of this Act to ensure that it is not interpreted as referring to "undeveloped" coastal lands or other lands whose development may not be consistent with the Act.

Authorization of Funding

The proposed bill would authorize funding to be set aside specifically for the implementation of the Coastal Nonpoint Pollution Control Program, which we wholeheartedly support. We appreciate that the bill intends to provide no less than 10% of the funds available through Section 309 for this purpose. As described above, however, we are concerned that the authorization of expenditures for the program is unclear and we strongly urge the Subcommittee to clarify this.

Secondly, we respectfully note that the 10% allocation unfortunately would not be sufficient to support these programs and is not even equivalent to the amount appropriated for this purpose for FY 2001, which was $10 million. Significantly increased funding is needed to develop and implement the coastal nonpoint pollution control program in future years. We would suggest that this amount be raised by increasing the total amount of funds authorized for Section 309 to $25 million.

Summary

In summary, we urge the Subcommittee to consider a carefully crafted Coastal Zone Management Act reauthorization bill that would revise the management process to be consistent with current stresses and threats to the coasts. Coast Alliance and its affiliated organizations strongly recommend that the Act should embody the following principles in order to achieve its goals:

1) The Coastal Nonpoint Pollution Control Program in its current form must be integrated into the Act, and sufficient funds must be authorized for its support.

2) The ProgramÕs requirements for enforceable mechanisms must be maintained.

3) The Act's consistency provisions which provide an important tool for states to protect their coastal ecosystems must not be weakened.

4) Principles or objectives should be included to ensure that projects or programs supported through appropriations under this act prioritize environmental protection, protecting and maintaining the natural integrity and complexity of coastal ecosystems.

Since runoff is the primary cause of aquatic habitat degradation, achieving the goals of the Act requires preventing runoff through the Coastal Nonpoint Pollution Control Program. Without a doubt, the success or failure of the that program depends on three factors: adequate plans to control the true causes of polluted runoff, the presence of enforceable mechanisms to make sure those sources are reduced, and adequate resources to implement these plans. To date, states and the federal government have invested in the development of runoff prevention and control plans. Some are finalized and many others are on the verge of completion. Congress can continue its efforts to protect the coasts by ensuring that the Coastal Nonpoint Pollution Control Program is reauthorized and funded as part of the Coastal Zone Management Act Reauthorization this year and that the revised Act is designed with necessary objectives to prioritize environmental protection. Coast Alliance looks forward to working with this Subcommittee toward that end.

---

1. Acreage affected by nonpoint sources were calculated by the Coast Alliance based on data provided by the National Marine Fisheries Service. These values represent only areas where waters were closed due to water quality concerns as documented in the database. To estimate percentage closed, Coast Alliance included areas where shellfishing is prohibited, restricted, or conditionally restricted, but not areas where shellfishing is conditionally approved or approved. Areas were considered impacted by nonpoint sources if nonpoint sources were documented in the NMFS database as an "actual" or "probable" cause of closures. Nonpoint sources are listed as probable causes where it is the best professional judgement of the agency that they are a contributor, but where no corroborating data are available.

2. The primary source of this information was the United States Department of Agriculture, Soil Conservation Service 1993 report: Erosion and Sediment Dynamics of the Maumee River Basin and their Impact on Toledo Harbor.

# # #